

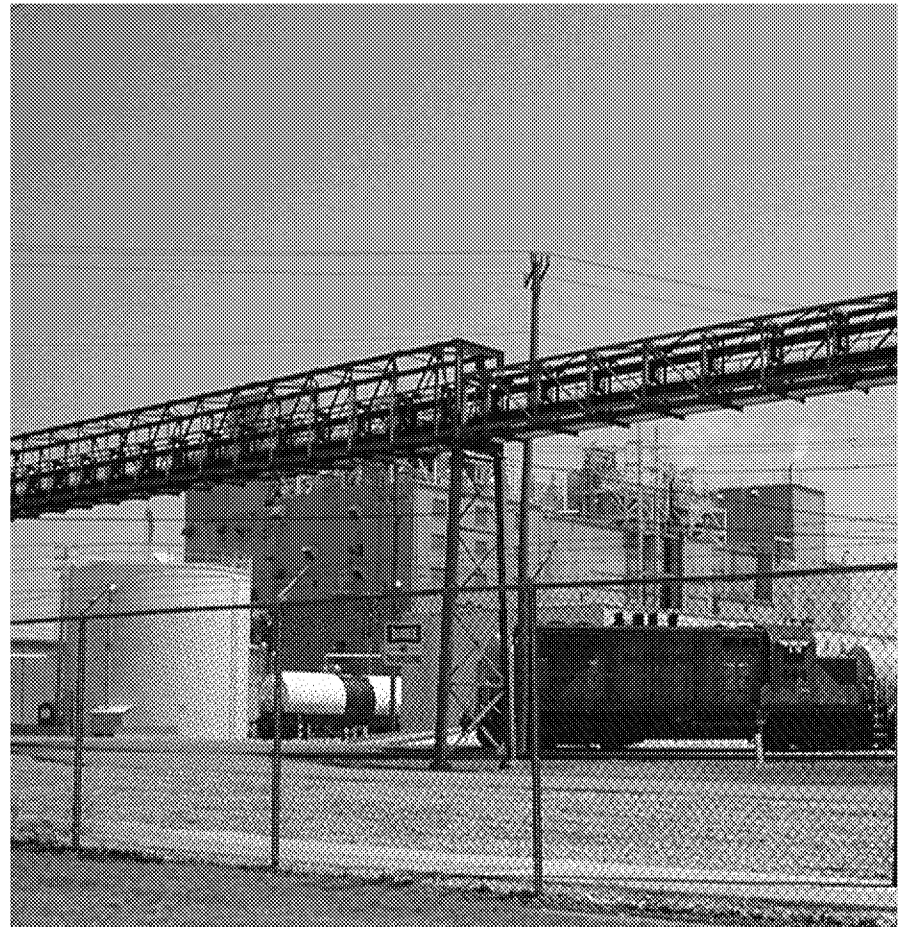
# **TSCA Updates**

## **Civil Enforcement Priorities**

**Chemical Risk and Reporting Enforcement Branch  
Waste and Chemical Enforcement Division,  
Office of Civil Enforcement, OECA  
U.S Environmental Protection Agency**

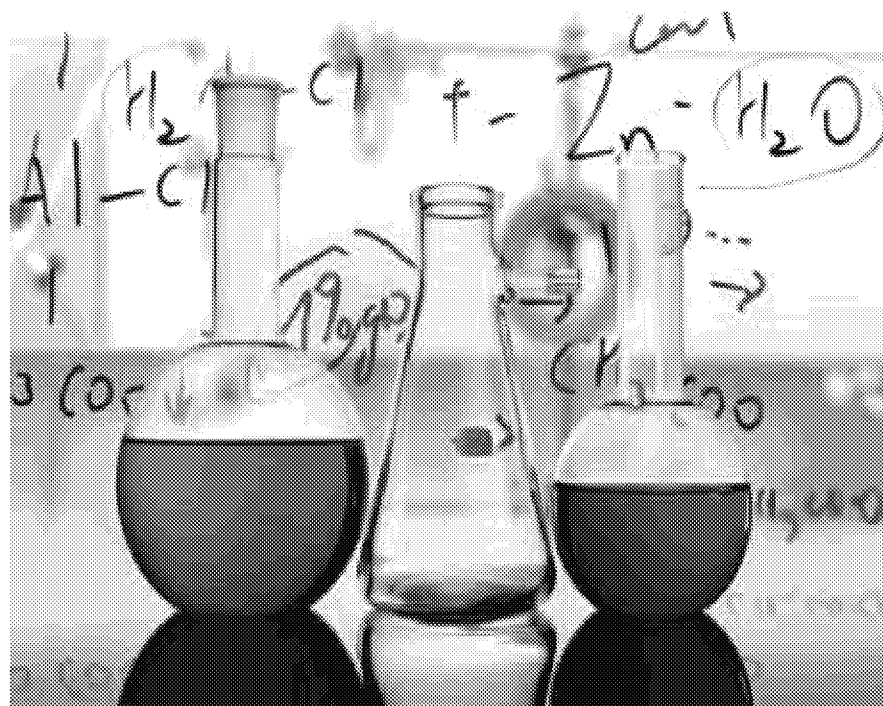
# Presentation Overview

- Introduction
- Office of Enforcement and Compliance Assurance  
National Program Guidance (NPG)
- Enforcement Focus Areas
- New TSCA Regulations
- Q&A



## FY '20-21 OECA National Program Guidance: Setting Program Direction

- 2016 Lautenberg amendments
- Section 4 test orders
- Section 5 (5e orders, SNURs, LVEs)
- Section 6 rules
- Section 8 Reporting
- Imports
- Chemicals of concern, e.g. PFAS



## FY '20-21 OECA National Program Guidance: Setting Program Direction

- **New and Existing (Core TSCA) was amended in 2016 by the Frank R. Lautenberg Chemical Safety for the 21st Century Act.**
  - The amendments give the EPA significant new, as well as continuing, responsibilities for reviewing chemicals in or entering commerce to prevent unreasonable risks to human health and the environment, including unreasonable risks to potentially exposed or susceptible subpopulations.
  - Proper implementation of the TSCA amendments is one of the EPA's top priorities.

# TSCA Section 5 New Chemicals Compliance

## Presents an Unreasonable Risk

- Section 5(f) order: Restriction/prohibition of manufacturing, processing, or distribution
- Section 6(a) Proposed Rule: Restriction/prohibition of manufacturing, processing, distribution, or disposal

## Insufficient information to permit a reasoned evaluation and may present unreasonable risk

- Section 5(e) – regulation pending more information
- Section 5(e) order- Section 5(e) – regulation pending more information
- Section 5(e) order

## Information is insufficient to permit a reasoned evaluation of the risk

- Section 5(e) – regulation pending more information
- Section 5(e) order

## Chemical Substance Produced In Substantial Quantities

- Section 5(e) – regulation pending more information
- Section 5(e) order

## Not Likely to present an unreasonable risk

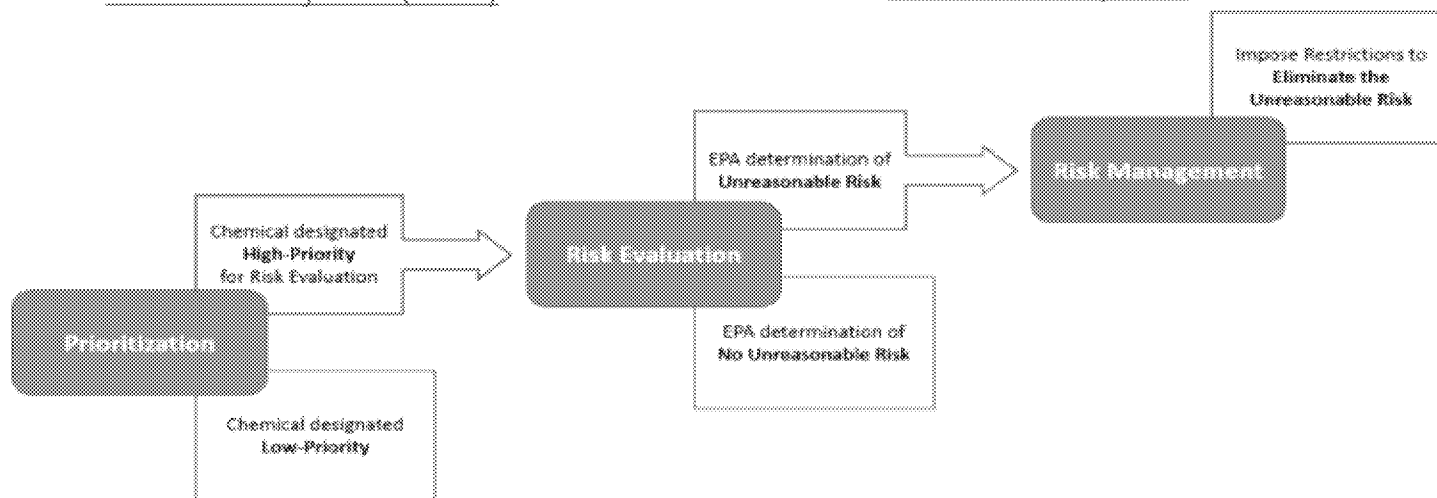
- Commercialization can commence after the determination is made
- Section 5(g) – Statement in the FR

## Key Compliance areas:

- **Section 5 Consent Order** requirements;
- **Exemptions** (LVEs, LOREXs, etc);
- **Significant New Use Rule (SNUR)** restrictions;
- Special emphasis on chemicals of concern such as per- and polyfluoroalkyl substances (PFAS).

# Increased Activity Under TSCA Section 6

- TSCA Section 6(b)(1)(A) risk evaluations, followed by Section 6 rules to reduce or eliminate unreasonable risks.
  - Enforcement is part of those discussion to ensure any requirements are implementable.
- Asbestos, Part 1: Chrysotile Asbestos
  - 1-Bromopropane
  - 1,4-Dioxane
  - Carbon tetrachloride
  - Trichloroethylene (TCE)
  - C.I. Pigment Violet 29 (PV29) (2021 final)
  - Cyclic aliphatic bromide cluster (HBCE)
  - Methylene chloride (2019 Ban + 2020 risks)
  - n-methylpyrrolidone (NMP)
  - Perchloroethylene



For chemicals currently undergoing risk evaluation: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/chemicals-undergoing-risk-evaluation-under-tsca>

## Methylene Chloride Rule

- Finalized March 27, 2019; effective November 22, 2019.
- Prohibits the manufacture (including import), processing, and distribution, including to and by retailers, in commerce of methylene chloride for consumer use in paint and coating removal products.
- Requires that manufacturers, processors, and distributors (excluding retailers) of methylene chloride for any use, provide downstream notification of the prohibitions of the final rule through SDSs.
- Requires recordkeeping relevant to the above prohibitions.

## Increased Activity Under TSCA Section 6 cont.

- PBT (Persistent, Bioaccumulative Toxic) Rules pursuant to TSCA Section 6(h)
  - **Decabromodiphenyl ether (DecaBDE):** A flame retardant in plastic enclosures for televisions, computers, audio and video equipment, textiles and upholstered articles, wire and cables for communication and electronic equipment, and other applications.
  - **Phenol, isopropylated phosphate (3:1) (PIP (3:1)):** A plasticizer, a flame retardant, an anti-wear additive, or an anti-compressibility additive in hydraulic fluid, lubricating oils, lubricants and greases, various industrial coatings, adhesives, sealants, and plastic articles.
  - **2,4,6-tris(tert-butyl) phenol (2,4,6-TTBP):** An intermediate/reactant in processing, and is incorporated into formulations destined for fuel and fuel-related additives;
  - **Hexachlorobutadiene (HCBD):** A chemical used as a halogenated aliphatic hydrocarbon that is produced as a byproduct during the manufacture of chlorinated hydrocarbons.
  - **Pentachlorothiophenol (PCTP):** A chemical used to make rubber more pliable in industrial uses.
  - <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals-under>



## TSCA Section 4 Test Orders

- Test Orders in use to obtain information for Section 6 chemical evaluations.
- Deadlines important to assure accurate analysis, fairness to the regulated community and maintain the timelines set by statute.
- Multiple milestones in orders to assure plans get submitted, coalitions get created, tests get performed in a timely manner.
- <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-4-test-orders>

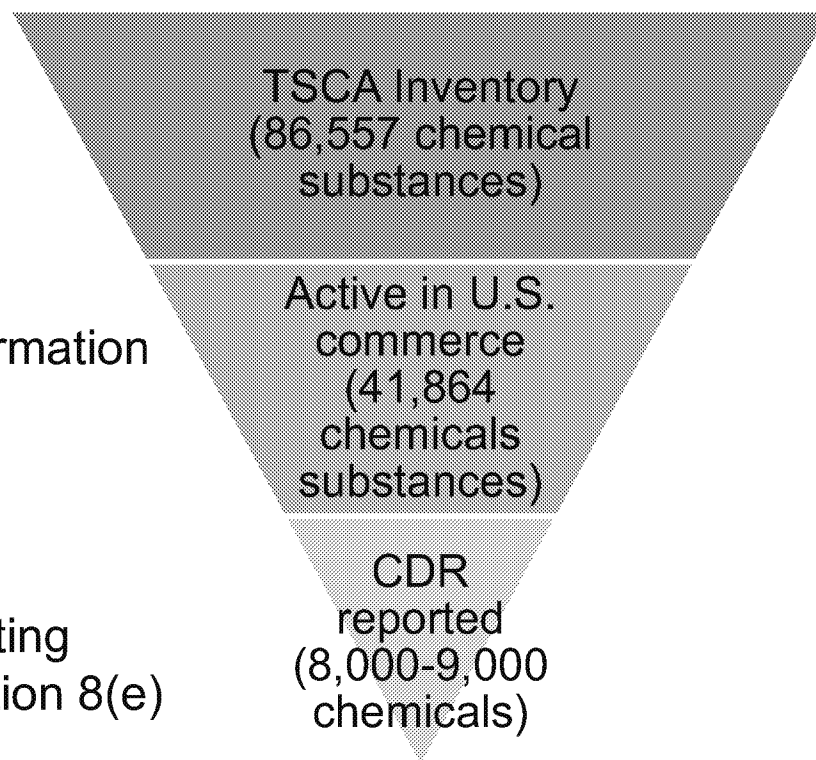
# Chemical Data Reporting Under TSCA Section 8

## 2020 Chemical Data Reporting (CDR) Rule

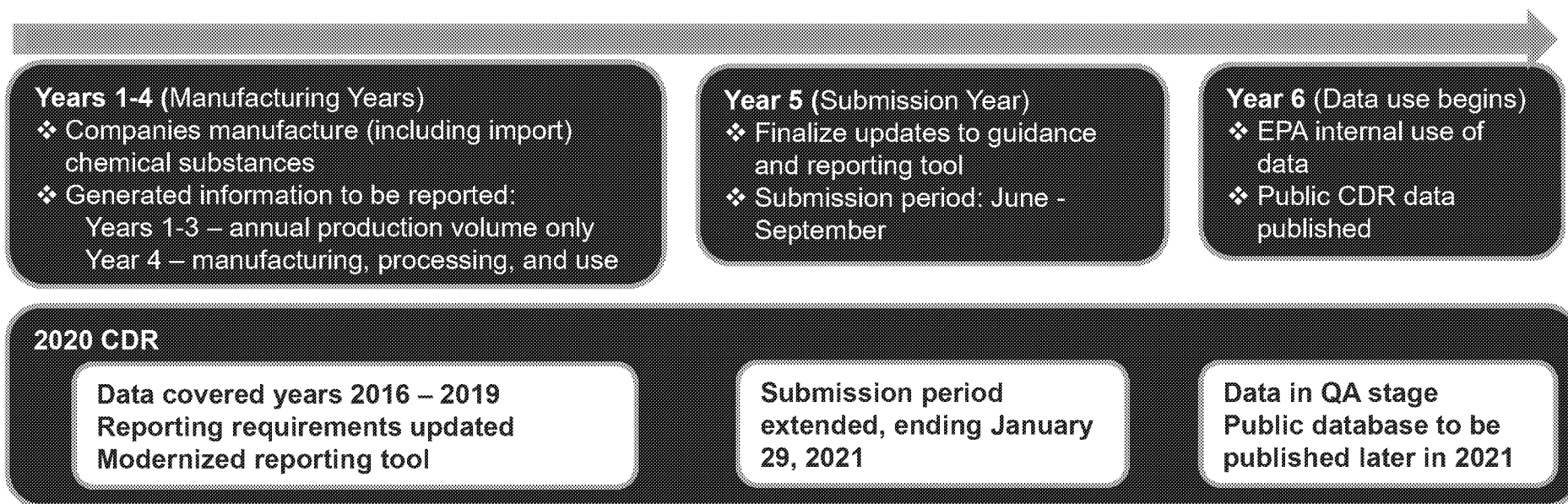
- 2019 is Principal Reporting Year
- Deadline January 29, 2021 for reporting after extension
- Issues arising as data is reviewed
  - Importer questions
  - Byproduct issues
  - 2016-2019 production volume
  - 2019 manufacturing, processing, use information

## Additional Ongoing Activities

- Section 8(a)(7) – PFAS Data Reporting Rule
- Section 8(a) – Work Plan Chemicals
- Section 8(d) – Health and Safety Data Reporting
- Substantial risk information under TSCA Section 8(e)
- Annual TRI Data Collection – July 1 deadline



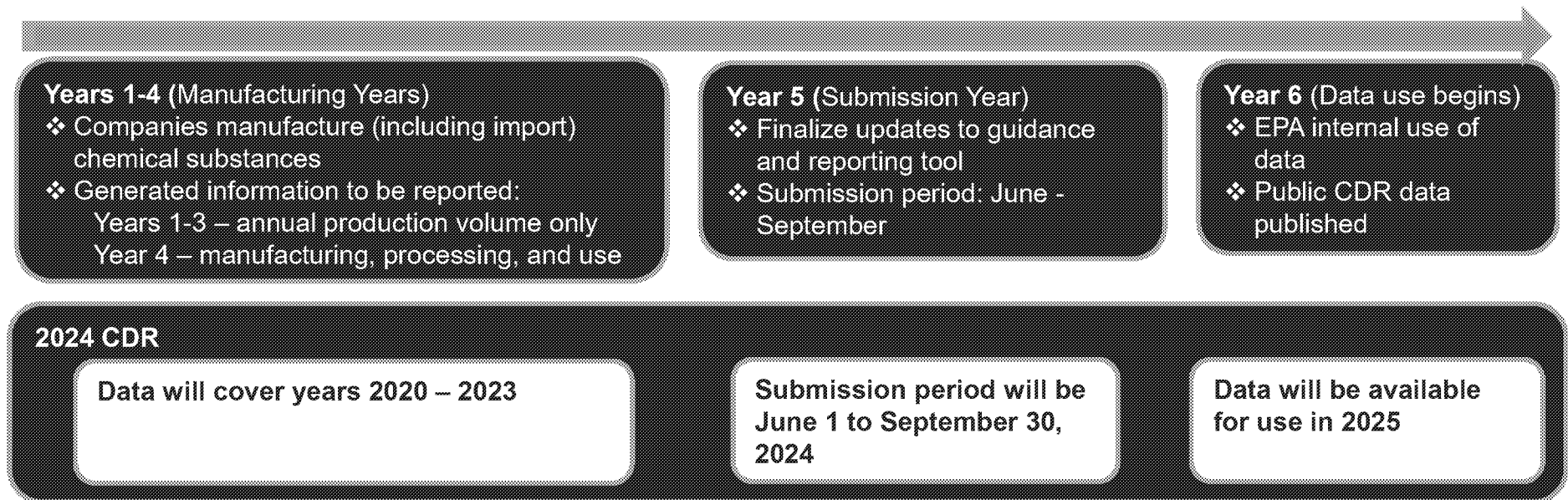
# CDR Life Cycle – 2020 CDR



## Summary and status of 2020 CDR:

- More than 5,200 sites reported
- Conducting CBI and quality assurance reviews
- Public data expected in summer 2021

# Looking Forward to 2024 CDR



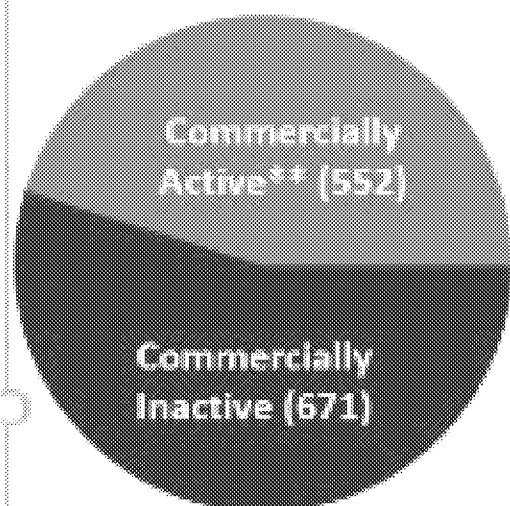
## Changes for 2024 CDR:

- Fully implement changes from CDR Revisions rule
  - Updated processing and use data codes used by all
- Improved modernized reporting tool
  - Analyzing 2020 reporting to determine improvements
  - Updates to guidance based on submitter questions

# PFAS ACTION PLAN

<https://www.epa.gov/pfas/epas-pfas-action-plan>

## EPA Actions



1,223 Total  
Compounds

- MARCH 2002: Significant New Use Rule (SNUR) requiring notification to the EPA before any future manufacture (including import) of 13 PFAS chemicals
- DECEMBER 2002: Significant New Use Rule for additional 75 PFAS chemicals
- OCTOBER 2007: Significant New Use Rule for additional 183 PFAS chemicals
- JANUARY 2010: Amendment of Polymer Exemption Rule to Exclude Certain PFAS Polymers
- 2010-2015: PFOA Stewardship Program - reduce long-chain PFAS emissions and product content by 95%; by 2015 reduce long-chain PFAS emissions and product content by 100%. All participating companies met the program goals.
- OCTOBER 2013: Significant New Use Rule for additional PFAS chemicals
- JANUARY 2015: Proposed Significant New Use Rules for additional PFAS chemicals

\* The TSCA inventory is a list of chemical substances approved for U.S. commerce. The original inventory was compiled from substances reported under the 1979 TSCA Inventory Reporting Rule, and substances have been added since via a commercial Chemical Notice.

\*\* Substances on the TSCA inventory currently designated as commercially active are those reported under the retrospective reporting requirements of the TSCA Inventory Notification (aka/active) rule. These substances were in U.S. commerce at some point between June 2006 and June 2016.

# EPA Settlement with Swix Sport USA Resolves TSCA Violations Involving PFAS

05/20/2020

Contact Information:  
([press@epa.gov](mailto:press@epa.gov))

**WASHINGTON** (May 20, 2020) — On Wednesday, May 13, 2020, the U.S. Environmental Protection Agency (EPA) and Swix Sport USA (Swix) finalized an agreement resolving Toxic Substances Control Act (TSCA) violations associated with the importation of noncompliant ski wax products containing per- and polyfluoroalkyl substances (PFAS). Swix agrees to pay a fine and develop a \$1M educational program to raise awareness in ski communities about PFAS chemicals in ski waxes.

- Under the terms of the settlement, Swix has agreed to spend approximately \$1,000,000 to develop and implement an outreach and training program referred to as a Responsible Waxing Project (RWP) and pay a \$375,625 civil penalty.
- RWP aimed at:
  - educating the ski racing community about PFAS chemicals in racing waxes and their impact on the environment; and
  - promoting the use of wax alternatives with lower environmental impact, including but not limited to racing waxes that are PFAS-free.

# Complex Multi-Media PFAS Investigations



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**FEB 13 2019**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Mark Vergnano, President and CEO  
The Chemours Company  
Care of the Corporate Secretary  
1007 Market Street  
Wilmington, Delaware 19899

Re: Notice of Violation of the Toxic Substances Control Act

Dear Mr. Vergnano:

The purpose of this letter is to notify you that the U.S. Environmental Protection Agency (EPA) has determined that The Chemours Company (Chemours) is in violation of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq., and its implementing regulations. Representatives of the EPA conducted inspections at Chemours' Fayetteville Works facility located near Fayetteville, North Carolina on June 28 and 29, 2017, and at the Washington Works facility near Parkersburg, West Virginia on October 17 and 18, 2017. The inspection reports provide a detailed description of the observations made during each inspection along with observations from the review of information Chemours provided to the inspectors. As detailed in this Notice of Violation (NOV), Chemours violated Section 5 of TSCA, 15 U.S.C. § 2604 and Section 8 of TSCA, 15 U.S.C. § 2607, and the regulations promulgated at 40 CFR Parts 720, 721, and 711, as indicated below.

- EPA sent a Notice of Violation to Chemours on February 14, 2019, identifying violations at two Chemours' facilities.
- The NOV identified violations of a TSCA 5(e) consent order as well as violations of other sections of TSCA and regulations.

## Formaldehyde Enforcement

- On August 15, 2019, EPA's Environmental Appeals Board issued a Final Order approving a Consent Agreement with Global Sourcing Solutions, a Division of Turner Logistics, LLC (GSS). This is EPA's first enforcement action taken under TSCA Title VI and its implementing Formaldehyde Rule.
- GSS violated certain requirements under TSCA Title VI including the importation of noncompliant composite wood products which did not meet third-party certification; labeling; and import certification requirements.
- GSS paid a civil penalty of \$544,064; and agreed to a Corrective Action Plan to ensure that the formaldehyde emissions from its imported noncompliant composite wood products (e.g., residential kitchen cabinets) do not exceed the federal emissions limit set under TSCA Title VI. GSS will replace any necessary components of the composite wood products with TSCA Title VI Compliant material. GSS made immediate efforts to come into compliance.



## Knowing Use Enforcement

- On September 25, 2020, EPA's Environmental Appeals Board issued a Final Order approving a Consent Agreement with Toyota Motor North America Inc. (TMNA) resolving Toxic Substances Control Act (TSCA) Section 15(2) Commercial Use violations. EPA's enforcement action against TMNA arises from a commercial use of an illegally produced substance by using a coating product containing a chemical that it knew was not on the TSCA Inventory or was not otherwise exempt. The Settlement includes the payment of a civil penalty of \$273,888.
- TMNA violated the TSCA §15(2) when it used an imported chemical for 9 days after knowing that the imported chemical substance was not on the TSCA Inventory nor approved for any exemption. The chemical has subsequently been approved by EPA under a TSCA section 5 exemption allowing the supplier to import the chemical under specific terms and conditions.



## Any Questions?

James Miles – [miles.james@epa.gov](mailto:miles.james@epa.gov)

Sonja Rodman – [rodman.sonja@epa.gov](mailto:rodman.sonja@epa.gov)

Mark Garvey – [garvey.mark@epa.gov](mailto:garvey.mark@epa.gov)

Gloria Odusote – [odusote.gloria@epa.gov](mailto:odusote.gloria@epa.gov)

